

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
WEST RIVER TELECOMMUNICATIONS COOPERATIVE)	
)	CC Docket No. 96-45
Petition for Waiver of Section 54.301(e) Submission Date for)	
2007 Local Switching Support True-up Data)	

PETITION FOR WAIVER

West River Telecommunications Cooperative (the “Company” or “WRT”), pursuant to 47 C.F.R. Section 1.3, hereby respectfully requests that the Federal Communications Commission (the “Commission”) grant a waiver of the December 31, 2008, deadline for the submission of 2007 Local Switching Support true-up data. WRT failed to timely submit the true-up data worksheet, although it did submit the signed certification required to accompany the worksheet via facsimile on December 17, 2008. The certification was also mailed to USAC via First Class mail. As explained in more detail below, WRT made a good faith effort to meet the deadline by having the true-up data worksheet prepared and reviewed and by having the certification signed and sent to the Universal Service Administrative Company (“USAC”). However, due to a slight miscommunication, the true-up data worksheet itself was not submitted in a timely fashion.

Introduction and Background

WRT is a communications cooperative headquartered in Hazen, North Dakota. WRT serves 25 exchanges located in all or part of 17 counties in North and South Dakota, which includes more than 14,500 rural subscribers. The Company was designated as an ETC by the North Dakota Public Service Commission in December 1997. WRT exited the National Exchange Carrier Association (“NECA”) traffic-sensitive pool in 1986. Since then, the Company has submitted the Local Switching Support data in a timely manner. Throughout the years, the Company’s cost consultant would prepare the true-up data worksheet and handle its submission to USAC, while WRT management would sign the certification and forward it to USAC. Consistent with this “routine,” the 2007 Local Switching Support true-up data

worksheet was prepared by the cost consultant and forwarded to the Company in early December 2008. WRT management reviewed the worksheet, signed the accompanying certification and filed the certification with USAC on December 17, 2008. (See attachment).

However, the Company was also at the same time transitioning to a new cost consultant and the “hand-off” of responsibility to submit the 2007 true-up data worksheet failed. It was not until the May 2009 disbursement statement from NECA was received that WRT realized there was a problem with respect to its universal service support. WRT contacted USAC and discovered that the 2007 Local Switching Support true-up data had not been submitted. The Company immediately sent the data to USAC via email. Nonetheless, USAC will not process the data until the Commission grants WRT a waiver of the Section 54.301(e) filing deadline. In the meantime, the Company has had to surrender the entire \$469,212 of Local Support received during 2007.

WRT is fully aware of the consequences for missing a filing deadline and, with the exception of the above-described oversight, has otherwise been timely in its submissions to USAC. In addition, the Company has since implemented internal and external safeguards to assure future filings are submitted in full and on a timely basis. Additional WRT staff members have been made aware of the various deadlines applicable to the Company, particularly those deadlines for which WRT does not rely on NECA. Also, the Company’s new cost consultant and members of its staff have included WRT in their regulatory notifications and reminders.

Argument

Local Switching Support is essential for the maintenance of WRT’s network, as well as for future improvements. Forfeiting an entire year of Local Switching Support will cause substantial financial hardship for the Company and will likely delay WRT’s plans to upgrade its network. Local Switching Support is designed to help rural carriers such as WRT recoup some of the capital expenditures and expenses associated with high fixed switching costs. As stated above, WRT serves 25 exchanges in all or part of 17 counties in North and South Dakota and needs the support to maintain quality service in such an expansive, rural area. The Commission recently noted that since missing a Local Switching Support

deadline means that a carrier will not receive funding for an entire year, "the loss of LSS has a much greater impact on a small carrier's capacity to ensure that consumers have and maintain access to service at just, reasonable, and affordable rates than the loss of other types of universal service support."¹ Further, the Commission may waive a rule where the facts in a particular instance make strict compliance inconsistent with the public interest.² WRT believes that strict enforcement of the filing deadline in this case would truly disadvantage WRT and, consequently, harm the very consumers intended to benefit from the federal high cost universal service program. The public interest will be served if the 2007 Local Switching Support for the Company is reinstated and allowed to be trued-up. Otherwise, the loss of an entire year of Local Switching Support will hinder the Company's ability to continue its network investment plans and the provision of advanced communications services to its subscribers in rural North and South Dakota.

Conclusion

For the reasons stated above, WRT respectfully requests that the Commission grant its petition for waiver. The Company believes that good cause exists to grant the waiver. WRT has demonstrated that it and its subscribers will be adversely affected if the waiver request is not granted. Further, no other party will be harmed by the Commission's grant of the waiver as WRT will only receive the Local Switching Support it was intended based upon the true-up data now on file with USAC.

DATED this 4th day of June, 2009.

Respectfully submitted,

By: 

Albert (Mick) Grosz, CEO/General Manager
West River Telecommunications Cooperative
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Hazen, North Dakota 58545
Phone: (701) 748-2211
Fax: (701) 748-6800

¹ *Northeast Iowa Telephone Company Petition for Waiver of Section 54.301(b) Submission Date for Projected 2008 Local Switching Support Data*, Order released April 21, 2009.

² *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).



WEST RIVER TELECOM

DATE: December 17, 2008

TIME: 1:30

NO. OF PAGES: 2
(Including cover sheet)

Fax to: USAC

Fax #: 1-877-877-4925

From: Bonnie Krause
COO/Financial Manager

FAX #: 701-748-3500

If you have any problems receiving this transmission, please call 701-748-2211.

Attached is a copy of West River Telecommunications Cooperatives signed Local Switching Support Certification.

Local Switching Support

VII. CERTIFICATION

This certification statement must be signed by the officer or employee responsible for the overall preparation of the data submission. (Ref. Part 54 of FCC Rules, 47 C.F.R. Section 54.707).

The completed certification statement must accompany the data submission.

CERTIFICATION

I am COO/Financial Manager. I hereby certify that I have overall responsibility for the
(Title of Certifying Officer or Employee)
preparation of all data in the attached 2007 LSS True-up data submission
(Title of Data Submission)
for West River Telecommunications Cooperative and that I am authorized to execute this
(Name of Carrier)
certification. Based on information known to me or provided to me by employees responsible
for the preparation of the data in this submission, I hereby certify that the data have been
examined and reviewed and are complete, accurate, and consistent with the rules of the Federal
Communications Commission.

Date: 12-17-08
Certifying Signature: Bonnie Krause
Name: Bonnie Krause
Title: COO/Finance Manager
Period Covered: January 1, 2007, to December 31, 2007

Persons willfully making false statements on this form can be punished by fine of forfeiture under the Communications Act of 1934, as amended, 47 U.S.C. §§ 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001.

ACTIVITY REPORT

TIME : 12/17/2008 15:15

NO.	DATE	TIME	FAX NO./NAME	DURATION	PAGE(S)	RESULT	COMMENT
#04	12/08	17:16	3483600	01:48	02	OK	TX ECM
#05	12/09	10:41	8735873	26	01	OK	TX ECM
	12/09	11:01	7018735873	57	02	OK	RX ECM
	12/09	12:06	9702039716	01:14	03	OK	RX ECM
#06	12/09	15:14	17012239598	28	01	OK	TX
#07	12/09	15:29	17012239598	29	01	OK	TX
	12/10	09:32	877-270-6185	46	02	OK	RX ECM
#08	12/10	12:17	19702039716	01:27	04	OK	TX ECM
#09	12/11	11:55	TL	01:03	01	OK	TX ECM
#09	12/11	11:57	WASHBURN	01:03	01	OK	TX ECM
#09	12/11	11:58	CHERYL	01:10	01	OK	TX ECM
#09	12/11	12:00	MCLAUGHLIN	01:04	01	OK	TX ECM
#09	12/11	12:02	WAREHOUSE	49	01	OK	TX ECM
#09	12/11	12:03	BEULAH CO	17	01	OK	TX ECM
#09	12/11	12:04	ELGIN	01:12	01	OK	TX
#09	12/11	12:06	MOBRIDGE OFFICE	32	01	OK	TX ECM
#09	12/11	12:07	MOBRIDGE CO	01:22	01	OK	TX ECM
#09	12/11	12:09	GLEN ULLIN	01:03	01	OK	TX ECM
#09	12/11	12:10	NEW SALEM	01:04	01	OK	TX ECM
#09	12/11	12:12	FORT YATES	01:03	01	OK	TX ECM
#09	12/11	12:14	CENTER	01:03	01	OK	TX ECM
#09	12/11	12:15	MCCLUSKY CO	01:04	01	OK	TX ECM
#09	12/11	12:17	HAZEN CO	01:12	01	OK	TX
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#10	12/11	14:55	BEULAH CO	18	01	OK	TX ECM
#10	12/11	14:55	ELGIN	01:13	01	OK	TX
#10	12/11	14:57	MOBRIDGE OFFICE	33	01	OK	TX ECM
#10	12/11	14:58	MOBRIDGE CO	01:25	01	OK	TX ECM
#10	12/11	15:00	GLEN ULLIN	01:04	01	OK	TX ECM
#10	12/11	15:02	NEW SALEM	01:05	01	OK	TX ECM
#10	12/11	15:04	FORT YATES	01:05	01	OK	TX ECM
#10	12/11	15:05	CENTER	01:05	01	OK	TX ECM
#10	12/11	15:07	MCCLUSKY CO	01:05	01	OK	TX ECM
#10	12/11	15:09	HAZEN CO	01:13	01	OK	TX
#11	12/12	12:27	WASHBURN	01:09	03	OK	TX ECM
	12/12	12:33	701-462-1065	40	01	OK	RX ECM
	12/12	15:51	9702039716	19	01	OK	RX ECM
	12/15	10:37	701 878 4494	24	01	OK	RX ECM
	12/16	08:53	6058453900	31	01	OK	RX ECM
#12	12/16	11:06	MOBRIDGE OFFICE	02:11	06	OK	TX ECM
#13	12/16	13:02	16058860932	38	00	NG	TX
#14	12/16	13:06	16058860932	59	02	OK	TX
	12/16	14:08	877-270-6185	31	01	OK	RX ECM
#15	12/17	12:06	17012239598	28	01	OK	TX
	12/17	14:42	605 823 1065	19	01	OK	RX ECM
#17	12/17	15:14	18778774925	32	02	OK	TX ECM

BUSY: BUSY/NO RESPONSE
 NG : POOR LINE CONDITION
 CV : COVERPAGE
 CA : CALL BACK MSG
 POL : POLLING
 RET : RETRIEVAL